

FEB 20 2015

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

Electricity Delivery and  
Energy Reliability

Nalcor Energy Marketing Corporation )

Docket No. EA-408

**APPLICATION OF NALCOR ENERGY MARKETING CORPORATION  
FOR AUTHORIZATION TO EXPORT ELECTRICITY TO CANADA**

Pursuant to section 202(e) of the Federal Power Act (FPA), 16 U.S.C. § 824a(e), and the Department of Energy's (DOE) regulations contained in 10 C.F.R. § 205.300, *et seq.*, Nalcor Energy Marketing Corporation (NEMC or Applicant) hereby files its Application for authorization to export electricity, as a power marketer, from the United States to Canada for a term of five years.

**I. REQUEST FOR EXPORT AUTHORIZATION**

**A. Description of the Applicant**

The exact legal name of the Applicant is Nalcor Energy Marketing Corporation (NEMC). NEMC is a corporation that is incorporated in the Province of Newfoundland and Labrador with its principal place of business in the City of St. John's, NL. NEMC is a wholly owned subsidiary of Nalcor Energy, which is a Crown corporation wholly owned by the Province of Newfoundland and Labrador, and responsible for the management of the Province's energy resources.

NEMC is a public utility pursuant to the Federal Power Act, holding market-based rate authority, which was granted by the Federal Energy Regulatory Commission (FERC) in Docket No. ER14-2579-000.<sup>1</sup> In early 2015, NEMC is planning to initiate the sale of energy and ancillary services in the United States wholesale energy markets.

<sup>1</sup> Nalcor Energy Marketing Corp., Letter Order, No. ER14-2579-000 (Sep. 24, 2014).

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Further, upon approval from DOE, but no earlier than April 1, 2015, NEMC anticipates engaging in the purchase of energy in the United States wholesale energy markets for export into Canada. As a power marketer, NEMC does not own any electric power generation or transmission facilities and does not have a franchised electric power service area within either the United States or Canada.

Through Nalcor Energy, NEMC is affiliated with the following entities:

- Newfoundland and Labrador Hydro (NLH), a Crown corporation that generates, transmits, and distributes electricity to utility, residential, and industrial customers throughout the Province of Newfoundland and Labrador;
- Churchill Falls (Labrador) Corporation that operates the 5,428 MW Churchill Falls Generating Station;
- Nalcor Energy – Oil and Gas Inc., which holds oil and gas working interests in licenses in Newfoundland and Labrador, both onshore and offshore, in its own right. Nalcor Energy – Oil and Gas Inc. does not sell oil or gas in the U.S. markets; and
- The Lower Churchill Project, which collectively encompasses two new hydroelectric generation sites, with a total capacity of 3,000 MW, on the Churchill River in Labrador. The first of these generation sites is expected to have an operational hydroelectric generation facility by 2018.

NEMC is not affiliated with any franchised public utility in the United States and does not have any partners in the export of energy for which authorization is now requested. Further, NEMC is registered with NERC [and NPCC] as a PSE and will

comply with all applicable reliability rules and procedures in the conduct of its energy purchase and selling activities, including those activities effectuating the export of energy from the United States to Canada pursuant to this requested authorization.

**B. Communications**

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Nalcor Energy Marketing Corporation  
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St. John's, NL A1B0P5  
Canada  
Tel: (709) 737-1440  
Fax: (709) 737-1250  
Email: GJones@nalcorenergy.com

Joseph B. Nelson  
Van Ness Feldman, LLP  
1050 Thomas Jefferson St., N.W.  
Washington, DC 20007  
Tel: (202) 298-1894  
Fax: (202) 338-2416  
Email: jbn@vnf.com

**C. State of Incorporation**

NEMC is incorporated in the Province of Newfoundland and Labrador with its principal place of business in the City of St. John's, NL. In the United States, NEMC is registered as a market participant in New York Independent System Operator, Inc. (NYISO) and ISO New England Inc. (ISO-NE). Further, it also intends to register and conduct business in the wholesale markets operated by PJM Interconnection, L.L.C. and Midcontinent Independent System Operator, Inc.

**D. Jurisdiction**

Pursuant to section 202(e) of the FPA,<sup>2</sup> DOE has jurisdiction over the action to be taken in this Application. No other known federal, state, or local government has jurisdiction over the export of energy to be undertaken under the authority requested pursuant to this Application.

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<sup>2</sup> 16 U.S.C. 824a(e).

### **E. Description of Transmission Facilities**

NEMC seeks authority to export electricity to Canada as a power marketer over existing cross-border facilities, as well as any additional future international electric transmission facilities that are appropriate for third-party use. NEMC does not own any transmission facilities and currently does not hold any transmission reservations for the delivery of energy from the United States into Canada. Exhibit C to this Application provides a description of these transmission facilities and their Presidential Permits numbers that NEMC anticipates using for any authorized export of electricity

### **F. Technical Discussion**

Pursuant to 18 C.F.R. §205.302(g), NEMC provides a discussion of the proposed electricity exports' reliability, fuel use and system stability impact, within the context of NEMC's operations as a power marketer. NEMC seeks the authority to transmit electricity as a power marketer over existing cross-border facilities identified in Exhibit C, as well as any additional future facilities that are appropriate for third-party use. As noted above, NEMC does not own or control electric generation or transmission facilities in the United States and does not have a power supply system of its own on which exports of power from the United States could have a reliability, fuel use, or system stability impact.

*Sufficiency of Electric Supply.* NEMC will purchase electric energy from wholesale energy markets operated by NYISO, ISO-NE, or other organized electric markets in which NEMC is granted status as a market participant, as well as through bilateral, voluntary agreements with electric or municipal utilities, cooperatives and federal power marketing agencies (as applicable). NEMC does not have a franchised service area and therefore does not have native load requirements within the United

States that could otherwise be impaired by exports.<sup>3</sup> Accordingly, the electric energy that NEMC will export on either a firm or interruptible basis will not impair the sufficiency of the electric power supply within the United States.

*Criterion # 2 – Reliability.* NEMC's exports of electric energy to Canada will not impede or tend to impede the regional coordination of electric utility planning or operations. NEMC will acquire all necessary transmission rights and reservations as well as schedule and deliver energy for export in accordance with the applicable transmission tariffs governing the provision of transmission service for any transmission facility(ies) over which an export transaction is sought. Further, NEMC will comply with all applicable reliability rules and procedures in the conduct of its energy purchase and selling activities, including those activities effectuating the export of energy from the United States to Canada pursuant to this requested authorization. NEMC will schedule each transaction with the appropriate balancing authority in compliance with the reliability criteria, standards, and guidelines of NERC and its Regional Entities. NEMC will obtain any and all regulatory approvals required to effect any export of energy from the United States into Canada. Moreover, NEMC will comply with the terms and conditions contained in the export authorizations issued for those cross-border facilities as well as other export limitations that the DOE may deem appropriate for those facilities.<sup>4</sup>

The controls inherent in any transaction that complies with applicable transmission tariffs, NERC requirements and DOE export limits on the transmission

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<sup>3</sup> See *Shell Energy N. Am. (US), L.P.*, Order No. EA-339-A at pp. 4-5 (May 9, 2013).

<sup>4</sup> See e.g. *Bruce Power Inc.*, Order No. 349-A at pp. 9-16 (Apr. 17, 2014); *Shell Energy N. Am. (US), L.P.*, Order No. EA-339-A at pp. 10-16; and *RBC Energy Servs. LP*, Order No. EA-328-A at pp. 7-13 (Sept. 28, 2012) (granting power marketers authorization to export to Canada).

facilities in Exhibit C, and any additional future facilities that are appropriate for third-party use, are sufficient to ensure that exports by Applicant will not impede the coordinated use of transmission facilities within the meaning of section 202(e) of the FPA.

DOE has concluded that, where it has previously reviewed technical reliability studies for Presidential permit applications for cross-border facilities, additional reliability impact assessments are not required for an export authorization over such facilities, provided that the maximum rate of transmission through a border system does not exceed the authorized limit of that transmission system.<sup>5</sup> The transmission facilities listed in Exhibit C, over which NEMC intends to export energy into Canada, each have received Presidential permits and therefore have been previously subject reliability studies reviewed by DOE.

Pursuant to the National Environmental Policy Act of 1969 and applicable implementing regulations under 10 C.F.R. Part 1021, DOE has established a categorical exclusion for energy export authorizations under FPA, Section 202(e).<sup>6</sup> Under this categorical exclusion, it has been determined that the export of electric energy does not, individually or cumulatively, have a significant effect on the human environment and, therefore neither an environmental assessment nor an environmental impact statement is required.<sup>7</sup> Further, to apply this categorical exclusion DOE must determine that there are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal and that the proposal has not been segmented to

<sup>5</sup> See *Bruce Power Inc.*, Order No. EA-349-A at p. 7 (citing to *AEP Tex. Cent. Co.* Order No. EA-317 at pp. 2-3 (Jan. 22, 2007) and *Montana Alberta Tie Ltd.*, Order No. 305, pp. 2-4 (Nov. 2008)).

<sup>6</sup> 10 C.F.R. Part 1021, App. 5 to Subpart D, § B4.2.

<sup>7</sup> *Id.*

meet the definition of categorical exclusion.<sup>8</sup> NEMC's application presents no special or unique circumstances and is not related to, or segmented from, any other project or facility that is under review pursuant to NEPA. Accordingly, application of the categorical exclusion pursuant to DOE's NEPA implementing regulations is appropriate.

## **II. EXHIBITS**

In accordance with 10 C.F.R. § 205.303, the following exhibits are attached hereto and made part hereof:

Exhibit A      Agreements – **Not Applicable**

Exhibit B      Legal Opinion

Exhibit C      Transmission Facilities

Applicant will use all existing and future DOE-approved transmission facilities available over the United States-Canada border. Existing transmission facilities are identified in Exhibit C.

Exhibit D      Non-U.S. Applicant's Power of Attorney

Exhibit E      Statement of Any Corporate Relationship or Existing Contract Which in Any Way Relates to the Control or Fixing of Electric Power Rates – **Not Applicable.**

Exhibit F      Operating Procedures – **Not Applicable**

Pursuant to 10 C.F.R. § 205.309, a copy of this Application is being provided to:

Federal Energy Regulatory Commission  
Office of the Secretary  
888 First Street, N.E.  
Washington, DC 20426

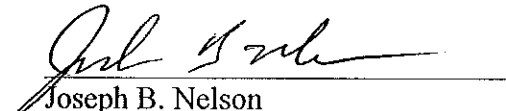
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<sup>8</sup> 10 C.F.R. §1021.410(b)(2) and (3); see e.g., *Shell Energy North America (US), L.P.*, Order No. EA-339-A at p. 8.

### III. CONCLUSION

In consideration of the foregoing, NEMC requests that this Application be expeditiously considered and approved for a term of five years, effective from the date of its issuance.

Respectfully submitted,

  
\_\_\_\_\_  
Joseph B. Nelson  
Counsel to Nalcor Energy  
Marketing Corporation

Dated: February 20, 2015



## **Exhibit A**

### **Transmission Agreements**

NEMC has no transmission reservations or transmission agreements within the United States.

By: *W*

**Exhibit B**  
**Statement of Opinion of Counsel**  
**(Attached)**

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Joseph B. Nelson  
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[jbn@vnf.com](mailto:jbn@vnf.com)

February 20, 2015

U.S. Department of Energy  
Office of Fossil Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-0340

**Re: Application of Nalcor Energy Marketing Corporation for Authority  
to Transmit Electric Energy to Canada**

Dear Madam Secretary:

Pursuant to 10 C.F.R. § 205.303(b) of the regulations of the Department of Energy, I hereby provide a legal opinion regarding the corporate powers of Nalcor Energy Marketing Corporation ("NEMC") to export electricity to Canada. I have examined the relevant corporate documents for NEMC, and based on my review of these documents, it is my opinion that the proposed exportation of electricity is within the corporate powers of NEMC, subject to Section 202(e) of the Federal Power Act, 16 U.S.C. § 824a(e). Additionally, NEMC confirms they have taken all necessary steps to comply with the applicable Federal and State laws in connection with the actions to be undertaken pursuant to this application.

Please contact the undersigned with any questions regarding this opinion.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joe Nelson", written over the printed name.

Joseph B. Nelson  
Attorney for Nalcor Energy  
Marketing Corporation

**Exhibit C**

**Transmission Lines**  
**at the U.S. – Canada Border**  
**Authorized for Third-Party Use**

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.<sup>1</sup></u>
Bangor Hydro-Electric Company	Baileyville, ME	345-kV	PP-89
Basin Electric Power Cooperative	Tioga, ND	230-kV	PP-64
Bonneville Power Administration	Blaine, WA	2-500-kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46
Eastern Maine Electric Cooperative	Calais, ME	69-kV	PP-32
International Transmission Company	Detroit, MI	230-kV	PP-230
	Marysville, MI	230-kV	PP-230
	St. Claire, MI	230-kV	PP-230
	St. Claire, MI	345-kV	PP-230
Joint Owners of the Highgate Project	Highgate, VT	120-kV	PP-82
Long Sault, Inc.	Massena, NY	2-115-kV	PP-24
Maine Electric Power Company	Houlton, ME	345-kV	PP-43
Maine Public Service Company	Limestone, ME	69-kV	PP-12
	Fort Fairfield, ME	69-kV	PP-12
	Madawaska, ME	138-kV	PP-29
	Aroostook, ME	2-69-kV	PP-29
Minnesota Power, Inc.	International Falls, MN	115-kV	PP-78
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61

<sup>1</sup> These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

*cy x*

# Exhibit C

Montana Alberta Tie Ltd.	Cut Bank, MT	230-kV	PP-305
New York Power Authority	Massena, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190
Northern States Power Company	Red River, ND	230-kV	PP-45
	Roseau County, MN	500-kV	PP-63
	Rugby, ND	230-kV	PP-231
Sea Breeze Olympic Converter LP	Port Angeles, WA	±450-kV DC	PP-299 <sup>2</sup>
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	±450-kV DC	PP-76

<sup>2</sup> These transmission facilities have been authorized but not yet constructed or placed in operation.

OK

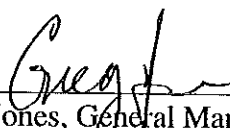
**Exhibit D**

**IRREVOCABLE LIMITED  
POWER OF ATTORNEY**

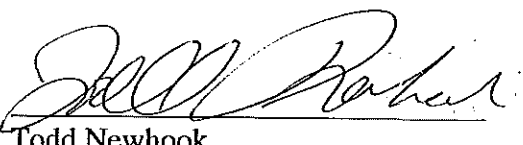
This IRREVOCABLE LIMITED POWER OF ATTORNEY is made on February \_\_, 2015 by Nalcor Energy Marketing Corporation (the "Principal"), a corporation organized and existing under the Canadian Business Corporations Act, with its headquarters at 500 Columbus Dr., P.O. Box 15200, St. John's, NL A1B 0P.

1. Appointment. The Principal hereby appoints Joseph B. Nelson, Esq. with principle place of business at Van Ness Feldman LLP, 1050 Thomas Jefferson St., NW, Suite 700, Washington, DC 20007 as the Principal's true and lawful agent for the limited purpose set forth below.
2. Scope of Authority. Pursuant to 10 C.F.R. § 205.303(d), Attorney Nelson shall have the limited power and authority to serve as the agent for the Principal regarding all matters related to the Principal's authorization to export electricity to Canada as issued by the U.S. Department of Energy ("DOE"). This appointment will remain in effect for the duration of the authorization, a five-year period, and will terminate simultaneously with the expiration of the authorization granted by DOE.
3. Irrevocability. This Power of Attorney is irrevocable by the Principal.

IN WITNESS HEREOF, the Principal has caused this Power of Attorney to be duly executed on this 17 day of February, 2015.

By:   
Greg Jones, General Manager,  
Energy Marketing  
Nalcor Energy Marketing Corporation

SUBSCRIBED AND SWORN BEFORE ME, this 17 day of February, 2015.

  
Todd Newhook  
Notary Public in and for the Province of  
Newfoundland and Labrador

My Commission expires: N/A

**Exhibit E**

**[Not Applicable]**

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**Exhibit F**

**[Not Applicable]**

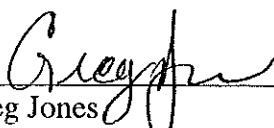
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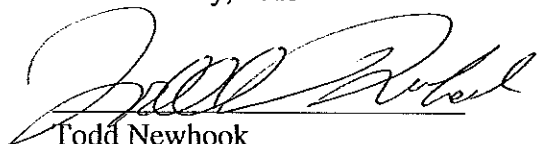
## VERIFICATION

### PROVINCE OF NEWFOUNDLAND AND LABRADOR

Greg Jones being duly sworn, states that he is the General Manager, Energy Marketing of Nalcor Energy Marketing Corporation, that he is authorized to execute this Verification, that he has read the above and foregoing document and is familiar with the contents thereof, and that all allegations of fact therein contained are true and correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
Greg Jones  
General Manager, Energy Marketing  
Nalcor Energy Marketing Corporation

Sworn to me this 17 day  
of February, 2015

  
\_\_\_\_\_  
Todd Newhook  
Notary Public in and for the Province of  
Newfoundland and Labrador